## REMARKS

Reconsideration of the application is respectfully requested in view of the foregoing amendments and following remarks. Claims 28-35 and 37-56 are pending in the application. No claims have been allowed. Claims 28, 30, 32, 33, 34, 35, 37, 38, 39, 46, 47, 53, 54, and 55 are independent.

### *Objection to Title*

Applicants acknowledge the Examiner's objection to the title. Applicants have amended the title to read, "DISTRIBUTING SOFTWARE VIA DISTRIBUTION FILES."

### *Information Disclosure Statement*

Applicants filed an Information Disclosure Statement ("IDS") on September 20, 2001, citing one non-patent reference. Applicants' records include a postcard indicating that the Office received the IDS on September 25, 2001. Accordingly, Applicants respectfully request the Examiner return the initialed Form 1449 to indicate the reference was considered. A copy of the Form 1449 is enclosed. Another copy of the reference can be obtained by contacting the undersigned attorney.

### *Cited Art*

U.S. Patent No. 5,845,077 to Fawcett ("Fawcett") is entitled "Method and System for Identifying and Obtaining Computer Software from a Remote Computer."

### *Patentability of Claims 28-35 and 37-55 over Fawcett under § 102(e)*

The Action rejects claims 28-35 and 37-55 under 35 U.S.C. § 102(e) as being anticipated by Fawcett. Applicants respectfully submit the claims in their present form are allowable over the cited art. For a 102(e) rejection to be proper, the cited art must show each and every element as set forth in a claim. (*See* MPEP § 2131.01.) However, the cited art does not so show.

1)    <u>Claim 53</u>

*Fawcett does not teach or suggest "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software," as recited in claim 53.*

The Examiner argues that Fawcett teaches "a distribution file comprising: . . . d) installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software." Applicants respectfully disagree. While Fawcett does describe installation of downloaded software, Fawcett does not teach or suggest the claimed arrangement.

The Examiner cites various sections in Fawcett, including column 8, lines 40-63 and column 9, lines 59-63. In the sections cited by the Examiner and elsewhere, Fawcett describes downloading software and installing the software on a user computer. [*See, e.g.*, Fawcett at col. 2, lines 46-48.] Software can be installed immediately or delayed download can be requested. [*See* Fawcett at col. 2, lines 46-53.] Software can also be automatically installed. [*See* Fawcett at col. 3, lines 14-15.]

*Fawcett's description of an immediate download describes a service update application which would not lead one to the recited "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software."* If immediate installation is chosen for the Fawcett system, "the service update application on the update service computer downloads the available software to the user computer and installs the software in the proper place (e.g. in the proper directory or subdirectory) on the user computer." [*See* Fawcett at col. 8, lines 49-53.]

The service update application that installs the software on the user computer is located on the update service computer. [*See* Fawcett at Fig. 3.] Fawcett does not describe placing the service update application in the same file as the software to be installed. Fawcett does not discuss installer starting instructions, nor does Fawcett describe any instructions for installing software that are arranged in a file with the software, such that the instructions are automatically executed upon completion of extraction. Fawcett's service update application thus would not lead one to the recited "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software."

*Fawcett's description of a delayed update using a user-launched installation application would not lead one to the recited "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software."* If a user of the Fawcett system chooses a delayed update, "the user provides re-connect information (98) that allows the update service computer to re-connect to the user computer at a more convenient time (e.g. midnight, etc.) and complete the downloading and installation at that time." [*See* Fawcett at col. 8, lines 59-63.] In one delayed update scenario in Fawcett, an installation application is included with the downloaded software, which the user launches to install the software:

> When the user is ready to install the computer software (e.g. the next morning if the computer software was transferred and installed in the middle of the night), the user simply launches the installation application supplied by update service computer.

[Fawcett at col. 9, lines 47-63.] Fawcett does not discuss installer starting instructions, nor does Fawcett describe any other instructions for installing software that are arranged in a file with the software, such that the instructions are automatically executed upon completion of extraction.

Fawcett does describe an installation application, but even the installation application in this scenario is *launched by the user* and is not automatically executed. Fawcett's delayed update using a user-launched installation application thus would not lead one to the recited "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software."

*Fawcett's description of a delayed "automatically installed" feature would not lead one to the recited "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software."* In another delayed scenario, the update service computer in Fawcett automatically installs the software when the update service re-connects to the user computer:

> However, the user can also choose to have the computer software automatically installed by the update service when it re-connects to the user computer (but, user permission is always obtained and recorded first). In this case, the installation application is not downloaded to the user computer.

[*See* Fawcett at col. 9, line 64 – col. 10, line 5.] As mentioned earlier, the service update application that installs the software on the user computer is located on the update service computer rather than the user computer. [*See* Fawcett at Fig. 3.] Fawcett does not describe placing the service update application in the same file as the software to be installed. Fawcett

does not discuss installer starting instructions, nor does Fawcett describe any other instructions for installing software that are arranged in a file with the software, such that the instructions are automatically executed upon completion of extraction. Fawcett's delayed "automatically installed" feature thus would not lead one to the recited "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software."

Fawcett does not teach or suggest "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software," as recited in claim 53. Because Fawcett does not teach or suggest at least one element recited in claim 53, claim 53 is allowable thereover. Accordingly, Applicants believe claim 53 is not subject to a § 102 rejection and request the rejection be withdrawn.

2)    Claims 28-35, 37-52 and 54-55

Claim 28 recites: "placing instructions for automatically invoking the instructions for installing the software in the file."

Claim 30 recites: "executable installation program starting instructions arranged within the distribution file to be automatically executed responsive to execution of the distribution file."

Claim 32 recites: "executable installation program starting instructions arranged within the distribution file to be automatically executed responsive to execution of the distribution file."

Claim 33 recites: "executable installation program starting instructions arranged within the distribution file to be automatically executed responsive to execution of the distribution file."

Claim 34 recites: "installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software and the installer."

Claim 35 recites: "executable installation program starting instructions arranged within the distribution file to be automatically executed responsive to execution of the distribution file."

Claim 37 recites: "means for initiating the installation program upon activation of the software distribution file."

Claim 38 recites: "executable installation starting means arranged within the distribution file to be automatically executed responsive to execution of the distribution file."

Claim 39 recites: "placing, at a location within the file so as to be automatically executed responsive to execution of the file, instructions for installing the software on the remote computer."

Claim 46 recites: "placing, at a location within the file so as to be automatically executed upon execution of the file, instructions for automatically invoking the instructions for installing the software in the file."

Claim 47 recites: "an installation program co-resident in the distribution file with the software, the installation program operable to install the software and arranged within the distribution file to automatically install the software upon execution of the distribution file."

Claim 54 recites: "an installer co-resident in the distribution file with the software, the installer operable to install the software and arranged within the distribution file to be automatically executed responsive to execution of the distribution file."

Claim 55 recites: "code for extracting and installing the software installable at the computer, the code arranged within the distribution file to be automatically executed upon execution of the distribution file."

Fawcett does not teach or suggest these arrangements. Because Fawcett does not teach or suggest at least one element of each of the cited independent claims, claims 28, 30, 32, 33, 34, 35, 37, 38, 39, 46, 47, 54 and 55 and dependent claims 29, 31, 40-45 and 48-52 are allowable over the cited art. Accordingly, Applicants believe claims 28-35, 37-52 and 54-55 are not subject to a § 102 rejections and request the rejections be withdrawn.

### *New Claim*

New claim 56 depends from claim 39, and is therefore allowable for at least the reasons described above with regard to claim 39.

### *Request for Interview*

If any issues remain, the Examiner is formally requested to contact the undersigned attorney prior to issuance of the next Office Action in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution. Applicants submit the foregoing Amendment so that the Examiner may fully evaluate Applicants' position, thereby enabling the interview to be more focused.
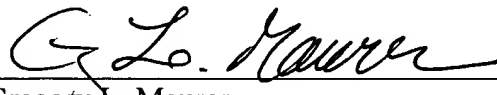
This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

### Conclusion

The claims in their present form should now be allowable.  Such action is respectfully requested.

Respectfully submitted,

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**Marked-up Version of Amended Specification Paragraph
Pursuant to 37 C.F.R. §§ 1.121(b)-(c)**

*In the Specification:*

The paragraph beginning at page 26, line 32 has been amended to add ".":

A call to MSSFVerify() by the network browser 110 decrypts with a public RSA decryption key, the encrypted original SHA hash value received in the self-extracting distribution file.  One or more public RSA decryption keys are typically published by the software distributor.  The private key is not published.  The SHA hashing process is then used to compute a second SHA hash value.  The second SHA hash value is compared with the original SHA value sent in the digital signature.